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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,247	12/27/2000	Fumito Takemoto	2091-0226P	4716

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EXAMINER

SHERALI, ISHRAT I

ART UNIT PAPER NUMBER

2624

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/748,247	<b>Applicant(s)</b> TAKEMOTO, FUMITO	
	<b>Examiner</b> Sherali Ishrat	<b>Art Unit</b> 2621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 22-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Response to Amendment/Arguments**

1. This action is in response to arguments received on 1/9/2006.

Applicant's arguments are fully considered however they are moot due to new grounds of rejection.

## **Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9, 12-14, 17-19 are rejected under 35 USC 102 (e) as being anticipated by Fujimto et al. (US 6,035,074) .

Regarding claim 1 Fujimoto discloses an image processing (Fujimoto, col. 3, lines 25-35) comprising:

receiving selection of a target image having a desired color tone from a plurality of reference images, each including the same type of image, each having a different color-tone (Fujimoto in col. 4, lines 5-10, states "color data including a human object is acquired and in col. 4, lines 25-30, changing the color of the face recognition when plurality of face color data stored in the memory are displayed". This corresponds to

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receiving selection of a target image having a desired color tone from a plurality of reference images, each including the same type of image [face], each having a different color-tone );

receiving specification of an area in an image displayed (Fujimoto in col. 4, lines 12-15, states “when plurality of areas having color data conforming to any of the face recognition color data are recognized, an area having the greatest size is extracted as face image”. This corresponds to receiving specification of an area in an image displayed); and

changing color tone of a desired area including the specified area to the color tone of the target image (Fujimoto in col. 4, lines 5-10, states “color data including a human object is acquired and in col. 4, lines 25-30, changing the color of the face recognition when plurality of face color data stored in the memory are displayed”. This corresponds to changing color tone of a desired area including the specified area [face image] to the color tone of the target image

Regarding claim 2, Fujimoto discloses generating plurality of reference images in advance based on predetermined image before receiving the selection of the target image (Fujimoto, in col. 7, lines 56-65 shows generating plurality of reference images in advance based on predetermined image before receiving the selection of the target image).

Regarding claim 3-6, 7-8, 12-13, 17-18 the claims are corresponding image processing apparatus, computer readable medium, image processing method, claims to claims 1-2, and the discussion is addressed with regard to claims 1-2.

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Regarding claims 9, 14 and 19 Fujimoto discloses the subject is face (Fujimoto, col. 4, lines 25-30, subject is face image).

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-11, 15-16 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujimoto (US 6,035,074) in view of Yoshimura (US 6,463,172).

Regarding claims 10-11, 15-16, 20-21, Fujimoto discloses face image (Fujimoto, col. 4, lines 25-30, subject is face image).

Fujimoto however does not mention the cumulative histogram.

Yoshimura, in an analogous environment, discloses the human face Yoshimura, in an analogous environment, further discloses changing histogram of the target image to the histogram of the reference image (col. 4 lines 42-52).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the schemes of Yoshimura in the system of Fujimoto in order to process the color matching easily for a user without any special knowledge or technique (abstract, Yoshimura abstract).

## **Allowable Subject Matter**

6. Claims 22-33 are objected as being dependent on rejected base claim but would be allowable if rewritten in independent form including limitation of the base claim and any intervening claims.

## **Communication**

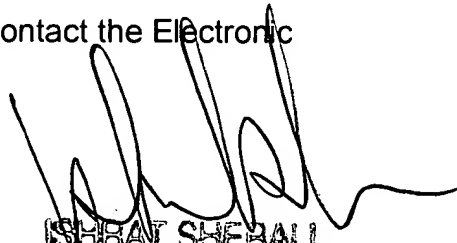
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherali Ishrat whose telephone number is 571-272-7398. The examiner can normally be reached on 8:00 AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ishrat Sherali

February 15, 2006



ISHRAT SHERALI  
PATENT EXAMINER  
ARTUNIT 2621